

§301.6721-1 of this chapter (Procedure and Administration Regulations). For provisions relating to the penalty provided for failure to furnish timely a correct payee statement required under section 6041(d), see §301.6722-1 of this chapter. See §301.6724-1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

[T.D. 8734, 62 FR 53474, Oct. 14, 1997]

**§ 1.6041A-1 Returns regarding payments of remuneration for services and certain direct sales.**

(a) through (c) [Reserved]

(d) *Exceptions to return requirement.* [Reserved]

(1) and (2) [Reserved]

(3) *Foreign transactions*—(i) *In general.* No return shall be required under section 6041A with respect to payments described in this paragraph (d)(3).

(A) Returns of information are not required for payments that a payor can, prior to payment, associate with documentation upon which it may rely to treat as made to a foreign beneficial owner in accordance with §1.1441-1(e)(1)(ii) or as made to a foreign payee in accordance with §1.6049-5(d)(1) or presumed to be made to a foreign payee under §1.6049-5(d)(2), (3), (4), or (5). However, such payments may be reportable under §1.1461-1(b) and (c). For purposes of this paragraph (d)(3)(i)(A), the provisions in §1.6049-5(c) (regarding rules applicable to documentation of foreign status and definition of U.S. payor and non-U.S. payor) shall apply. The provisions of §1.1441-1 shall apply by substituting the term *payor* for the term *withholding agent*.

(B) Returns of information are not required for payments of remuneration for services from sources outside the United States (determined under the provisions of part I, subchapter N, chapter 1 of the Internal Revenue Code and the regulations under those provisions) if payments are made outside the United States by a non-U.S. payor or non U.S. middleman. For a definition of non U.S. payor or non-U.S. middleman, see §1.6049-5(c)(5). For circumstances in which a payment is considered to be made outside the United States, see §1.6049-5(e).

(C) Returns of information are not required under sections 6041 or 6041A for amounts paid outside of the United States (within the meaning of §1.6049-5(e)) as remuneration for services as a direct seller (within the meaning of section 3508) performed outside of the United States or for sales described in section 6041A(b) made outside of the United States of consumer products for resale outside of the United States.

(ii) *Payor.* The term *payor* has the same meaning as described in §1.6049-4(a)(2).

(iii) *Joint owners.* Amounts paid to joint owners for which a certificate or documentation is required as a condition for being exempt from reporting under paragraph (d)(3)(i) of this section are presumed made to U.S. payees who are not exempt recipients if, prior to payment, the payor or middleman cannot reliably associate the payment either with a Form W-9 furnished by one of the joint owners in the manner required in §§31.3406(d)-1 through 31.3406(d)-5 of this chapter, or with documentation described in paragraph (d)(3)(i)(A) of this section furnished by each joint owner upon which it can rely to treat each joint owner as a foreign payee or foreign beneficial owner.

(iv) *Conversion into United States dollars of amounts paid in foreign currency.* For rules concerning foreign currency conversion, see §1.6049-4(d)(3)(i).

(v) *Effective date.* The provisions of this paragraph (d)(3) apply to payments made after December 31, 2000.

(e) [Reserved]

(f) *Statements to be furnished to persons with respect to whom information is required to be furnished*—(1) [Reserved]

(2) *Time for furnishing statement.* [Reserved]

(3) *Contents of statement.* [Reserved]

(g) [Reserved]

(h) *Cross-reference to penalties.* For provisions relating to the penalty provided for failure to file timely a correct information return required under section 6041A(a) or (b), see §301.6721-1 of this chapter (Procedure and Administration Regulations). For provisions relating to the penalty provided for failure to furnish timely a correct payee statement required under section 6041A(e), see §301.6722-1 of this chapter. See §301.6724-1 of this chapter for the

waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

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**§ 1.6042-1 Return of information as to dividends paid in calendar years before 1963.**

(a) *Requirement of return*—(1) *In general.* Except as provided in subparagraphs (2) and (3) of this paragraph, every domestic corporation, or foreign corporation engaged in business within the United States or having an office or place of business or a fiscal or paying agent in the United States, making payments during any calendar year before 1963 of \$10 or more of dividends and distributions (other than distributions in liquidation) to any shareholder who is an individual (citizen or resident of the United States), a resident fiduciary, or a resident partnership any member of which is a citizen or resident shall file for the calendar year a return setting forth the amount of such payments for such calendar year. A separate return on Form 1099, showing the name and address of the payer and the shareholder, and the amount paid, shall be prepared with respect to each shareholder. These returns shall be accompanied by transmittal Form 1096.

(2) *Federal land bank associations and certain other corporations.* A corporation described in section 501(c) (12), (15), or (16), or section 521(b)(1), or a Federal land bank association or a production credit association, making a payment of a dividend, or a distribution, to any shareholder in any calendar year before 1963 shall file an information return with respect to such payments when they total \$100 or more during the calendar year.

(3) *Savings and loan associations, etc.* A savings and loan association, a cooperative bank, a homestead association, a credit union, or a building and loan association is required to file an information return with respect to distributions made to a shareholder during any calendar year before 1963 only if the amount thereof paid to the shareholder during the calendar year, or such amount when aggregated with other

payments made to the shareholder during such year of interest, rents, royalties, annuities, pensions, and other gains, profits, and income, as described in paragraph (a)(2)(ii) of §1.6041-1, totals \$600 or more. For this purpose, the term “distributions to a shareholder” includes periodical distributions of earnings on running installment shares of stock paid or credited by a building and loan association to its holders of that class of stock, and the sum received upon withdrawal from a building and loan association in excess of the amounts paid in on account of membership fees and stock subscriptions, consisting of accumulated profits.

(b) *Nontaxable or partly nontaxable distributions.* In the case of a distribution which is made from a depletion or depreciation reserve, or which for any other reason is deemed by the corporation to be nontaxable or partly nontaxable to its shareholders, the corporation shall fill in the information on both sides of Form 1096.

(c) *Information as to actual owner*—(1) *In general.* When the person receiving a payment with respect to which an information return is required under authority of the Code is not the actual owner of the income received, the name and address of the actual owner or payee shall be furnished upon demand of the person paying the income, and in default of a compliance with such demand the payee becomes liable for the penalties provided. See section 7203. Dividends on stock are prima facie the income of the record owner of the stock. If a record owner of stock who is not the actual owner thereof receives dividends on such stock in any calendar year before 1963, he shall file a Form 1087 disclosing the name and address of the actual owner or payee, the name of the issuing corporation, the number of shares of such stock, and the amount of dividends received with respect to such stock during the calendar year. (For the reporting by a nominee of dividends received by him on behalf of another person in any calendar year after 1962, see §1.6042-2.) Unless such a disclosure is made the record owner will be held liable for any tax based upon such dividends. A separate Form 1087 shall be filed by the record owner for each of the stockholdings of each